

**Franchise Tax Board****ANALYSIS OF AMENDED BILL**Author: Poochigian Analyst: Rachel Coco Bill Number: SB 1689Related Bills: See Legislative History Telephone: 845-4328 Amended Date: April 12, 2004Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_**SUBJECT:** Exclusion/Reparation Payments/Armenian Genocide

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended \_\_\_\_\_.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO \_\_\_\_\_.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED/AMENDED \_\_\_\_\_ STILL APPLIES.

☒ OTHER - See comments below.

**SUMMARY**

This bill would exclude from income tax certain payments received by taxpayers persecuted by the Ottoman Turkish Empire.

**SUMMARY OF AMENDMENTS**

The April 12, 2004, amendments removed language that would make several nonsubstantive changes to a section of the Revenue and Taxation Code (R&TC). The amendments added language that would exclude from gross income payments received by an individual or an heir or estate of an individual, including any related excludable interest, made in settlement of persecution by the Ottoman Turkish Empire.

This bill also would make changes to the Education Code, the Unemployment Insurance Code, and the Welfare and Institutions Code. These changes would not affect the department and are not discussed in this analysis.

This is the department's first full analysis of this bill.

**PURPOSE OF THE BILL**

It appears the purpose of the bill is to redress the injustice done to individuals who were persecuted during the Ottoman Turkish Empire.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Department Director

Date

Gerald H. Goldberg

5/4/04

## **EFFECTIVE/OPERATIVE DATE**

This bill would be effective January 1, 2005, and operative for amounts received on or after January 1, 2005.

## **POSITION**

Pending.

## **ANALYSIS**

### FEDERAL/STATE LAW

Existing federal and state tax laws provide that gross income includes all income from whatever source derived, including compensation for services, business income, gains from property, interest, dividends, rents, and royalties, unless specifically excluded.

Existing federal and state tax laws provide that certain types of income are excluded from gross income, such as amounts received as a gift or inheritance, certain compensation for injuries and sickness, qualified scholarships, educational assistance programs, foster care payments, and interest received on certain state or federal obligations.

Existing federal and state tax laws exclude from an individual's income any Holocaust restitution payments and related interest that are received by an individual or by the individual's heir or estate.

### THIS BILL

This bill would exclude from gross income any payments, including related interest, made in settlement of persecution during the Ottoman Turkish Empire received by an eligible individual or by the individual's heir or estate.

The bill would define "eligible individual" as a person who was persecuted on the basis of race or religion by the regime that was in control of the Ottoman Turkish Empire from 1915 through 1923.

The bill would define "excludable settlement payment" as any payment or distribution to an individual or the individual's heirs or estate that is any of the following:

1. Payable by reason of the individual's status as an eligible individual, including any amount payable:
  - by any foreign or domestic entity or a fund established by such entity,
  - as a result of a final legal action, and
  - under a law providing for payments or restitution of property.
2. Compensation to an individual from 1915 until 1923, by reason of the individual's status as an eligible individual, including any insurance proceeds issued on the individual immediately before 1915 and during the period from 1915 until 1923.
3. Any interest that is payable as part of any payment or distribution described in 1 and 2 above.

The bill would define "excludable interest" as any interest earned by any of the following:

1. A fund to benefit eligible individuals or their heirs created by an international commission or organization.
2. A fund subject to administration of the U.S. courts created to provide excludable restitution payments to eligible individuals or their heirs or estates.

This bill states that the basis of any property received by an eligible individual or the individual's heirs or estate as part of an excludable restitution payment would be the fair market value of that property at the time of receipt.

The bill specifies that this provision would apply to any amounts received on or after January 1, 2005.

### IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department's programs and operations.

### TECHNICAL CONSIDERATIONS

This bill would amend a section of the Education Code containing a cross-reference to Section 17133.1 of the R&TC. Section 17133.1 of the R&TC is an erroneous reference. The bill should reference Section 17131.1.

### **OTHER STATES' INFORMATION**

*Illinois, Massachusetts, Michigan, and New York* provide an exclusion from income for individuals who were persecuted on the basis of race or religion under Nazi Germany or any other Axis regime. The laws of these states were reviewed because their tax laws are similar to California's income tax laws.

### **FISCAL IMPACT**

This bill would not significantly impact the department's costs.

### **ECONOMIC IMPACT**

#### Revenue Discussion

It is not possible to develop a reliable revenue estimate at this time due to uncertainties, including:

- the amount of future eligible payments;
- the number of qualified taxable California recipients; and
- the total earnings for which the exclusion would apply,

However, for every 1,000 taxpayers receiving an average tax benefit of \$500, the revenue loss would be \$500,000 per taxable year.

### **LEGISLATIVE STAFF CONTACT**

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